



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-125946-10]

RIN 1545-BJ66

Dollar-Value LIFO Regulations: Inventory Price Index Computation (IPIIC) Method Pools

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that relate to the establishment of dollar-value last-in, first-out (LIFO) inventory pools by certain taxpayers that use the inventory price index computation (IPIIC) pooling method. The proposed regulations provide rules regarding the proper pooling of manufactured or processed goods and wholesale or retail (resale) goods. The proposed regulations would affect taxpayers who use the IPIIC pooling method and whose inventory for a trade or business consists of manufactured or processed goods and resale goods.

DATES: Comments and requests for a public hearing must be received by **INSERT**

DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-125946-10), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044.

Submissions may be hand delivered Monday through Friday between the hours of 8

a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-125946-10), Courier's Desk, Internal

Revenue Service, 1111 Constitution Avenue, N.W., Washington, DC, or sent

electronically via the Federal eRulemaking Portal at <http://www.regulations.gov/> (IRS REG-125946-10).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Natasha M. Mulleneaux, (202) 317-7007; concerning submission of comments and requests for a public hearing, Regina Johnson, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 472 of the Internal Revenue Code permits a taxpayer to account for inventories using the LIFO method of accounting. The LIFO method of accounting for goods treats inventories on hand at the end of the year as consisting first of inventory on hand at the beginning of the year and then of inventories acquired during the year.

Section 1.472-8(a) of the Income Tax Regulations (26 CFR part 1) provides that any taxpayer may elect to determine the cost of its LIFO inventories using the dollar-value method, provided such method is used consistently and clearly reflects income. The dollar-value method of valuing LIFO inventories is a method of determining cost by using “base-year” cost expressed in terms of total dollars rather than the quantity and price of specific goods as the unit of measurement. The “base-year” cost is the aggregate of the cost (determined as of the beginning of the tax year for which the LIFO method is first adopted) of all items in a pool.

Pooling is central to the operation of the dollar-value LIFO method. Pooling requires costs related to different inventory products to be grouped into one or more inventory pools. To determine whether there is an increment or liquidation in a pool for a particular taxable year, the end of the year inventory of the pool expressed in terms of

base-year cost is compared with the beginning of the year inventory of the pool expressed in terms of base-year cost. The regulations prescribe rules for determining whether the number and composition of the pools used by the taxpayer are appropriate. The rules vary depending upon whether the taxpayer is engaged in the activity of manufacturing or processing or the activity of wholesaling or retailing.

The general pooling rules applicable to dollar-value LIFO taxpayers are in §1.472-8(b) and (c). These paragraphs provide separate pooling principles for taxpayers engaged in the manufacturing or processing of goods (§1.472-8(b)), and for taxpayers engaged in the wholesaling or retailing of goods purchased from others (§1.472-8(c)).

Section 1.472-8(b)(1) requires a manufacturer or processor to establish one pool for each natural business unit (natural business unit pooling method) unless the manufacturer or processor elects under §1.472-8(b)(3) to establish multiple pools. Further, §1.472-8(b)(2) provides that where a manufacturer or processor is also engaged in the wholesaling or retailing of goods purchased from others, the wholesaling or retailing operations with respect to such purchased goods shall not be considered a part of any manufacturing or processing unit. Additionally, §1.472-8(b)(1) requires that where the manufacturer or processor is also engaged in the wholesaling or retailing of goods purchased from others, any pooling of the LIFO inventory of such purchased goods for wholesaling and retailing operations shall be determined in accordance with §1.472-8(c).

In Amity Leather Products Co. v. Commissioner, 82 T.C. 726 (1984), the Tax Court considered whether a taxpayer that used the natural business unit pooling

method was subject to the separate pooling requirements by virtue of being both a manufacturer and a wholesaler or retailer of merchandise. The court concluded that requiring separate inventory accounting for the two functions was reasonable and held that, where the taxpayer manufactured goods and regularly purchased identical goods from a subsidiary for resale, it was required to maintain separate pools for manufactured and purchased inventory.

A manufacturer or processor using the natural business unit pooling method may elect to use the multiple pooling method described in §1.472-8(b)(3) for inventory items that are not within a natural business unit. Alternatively, a manufacturer or processor that does not use the natural business unit pooling method may elect to use the multiple pooling method. Under the multiple pooling method, generally each pool should consist of a group of inventory items that are substantially similar. Thus, raw materials that are substantially similar should be pooled together. Similarly, finished goods and goods-in-process should be placed in pools classified by major classes or types of goods.

Section 1.472-8(c)(1) requires wholesalers, retailer, jobbers, and distributors to establish inventory pools by major lines, types, or classes of goods. Mirroring §1.472-8(b)(1), §1.472-8(c)(1) requires that where a wholesaler or retailer is also engaged in the manufacturing or processing of goods, the pooling of the LIFO inventory for the manufacturing or processing operations must be determined in accordance with §1.472-8(b).

In general, any taxpayer that elects to use the dollar-value LIFO method to value LIFO inventories may elect to use the IPIC method to compute the base-year cost and determine the LIFO value of a dollar-value pool for a trade or business. A taxpayer that

elects to use the IPIC method of determining the value of a dollar-value LIFO pool for a trade or business may also elect to establish dollar-value pools, for those items accounted for using the IPIC method, using the IPIC pooling method provided in §1.472-8(b)(4) and (c)(2). Section 1.472-8(b)(4) governs the application of the IPIC pooling method to manufacturers and processors that elect to use the IPIC method for a trade or business. Section 1.472-8(c)(2) governs the application of the IPIC pooling method to wholesalers, retailers, jobbers, and distributors that elect to use the IPIC method for a trade or business.

For manufacturers and processors using the IPIC pooling method under §1.472-8(b)(4), pools may be established for those items accounted for using the IPIC method based on the 2-digit commodity codes (that is, major commodity groups) in Table 9 (formerly Table 6) of the Producer Price Index Detailed Report (PPI Detailed Report), which is published monthly by the United States Bureau of Labor Statistics (BLS). A taxpayer establishing IPIC pools under §1.472-8(b)(4) may combine IPIC pools that comprise less than 5 percent of the total inventory value of all dollar-value pools to form a single miscellaneous IPIC pool. If the resulting miscellaneous IPIC pool is less than 5 percent of the total inventory value of all dollar-value pools, the taxpayer may combine the miscellaneous IPIC pool with its largest IPIC pool.

For retailers using the IPIC pooling method under §1.472-8(c)(2), pools may be established for those purchased items accounted for using the IPIC method based on either the general expenditure categories (that is, major groups) in Table 3 of the Consumer Price Index Detailed Report (CPI Detailed Report), published monthly by BLS, or the 2-digit commodity codes (that is, major commodity groups) in Table 9 of the

PPI Detailed Report. For wholesalers, jobbers, or distributors using the IPIC pooling method under §1.472-8(c)(2), pools may be established for those items accounted for using the IPIC method based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. A taxpayer establishing IPIC pools under §1.472-8(c)(2) may combine pools that comprise less than 5 percent of the total inventory value of all dollar-value pools to form a single miscellaneous IPIC pool. If the resulting miscellaneous IPIC pool is less than 5 percent of the total inventory value of all dollar-value pools, the taxpayer may combine the miscellaneous IPIC pool with its largest IPIC pool.

Each of the 5-percent rules provided in §1.472-8(b)(4) or (c)(2) is a method of accounting. Thus, a taxpayer may not change to, or cease using either 5-percent rule without obtaining the prior consent of the Commissioner. Whether a specific IPIC pool or the miscellaneous IPIC pool satisfies the applicable 5-percent rule must be determined in the year of adoption or year of change (whichever is applicable) and redetermined every third taxable year. Any change in pooling required or permitted under a 5-percent rule is also a change in method of accounting. A taxpayer must secure the consent of the Commissioner before combining or separating pools. The general procedures under section 446(e) and §1.446-1(e) that a taxpayer must follow to obtain the consent of the Commissioner to change a method of accounting for federal income tax purposes are contained in Rev. Proc. 2015-13, 2015-5 I.R.B. 419 (or its successors), as modified by Rev. Proc. 2015-33, 2015-24 I.R.B. 1067. See §601.601(d)(2)(ii)(b).

The general pooling rules of §1.472-8(b) and (c) provide that where a taxpayer is engaged in both a manufacturing or processing activity and a wholesaling or retailing

activity, separate pooling rules apply to the separate activities, and goods purchased for resale may not be included in the same pool as manufactured or purchased goods. On the other hand, the IPIC pooling rules address circumstances where a trade or business consists entirely of a manufacturing, processing, retailing, or wholesaling activity. The Treasury Department and the IRS have become aware of confusion concerning how the IPIC pooling rules apply where a taxpayer is engaged in both a manufacturing or processing activity and a wholesaling or retailing activity. Accordingly, these proposed regulations address this issue.

Explanation of Provisions

Changes to IPIC Pooling Rules

The proposed regulations amend the IPIC pooling rules to clarify that those rules are applied consistently with the general LIFO pooling rule that manufactured or processed goods and resale goods may not be included in the same dollar-value LIFO pool. This general rule is intended to limit cost transference, an inherent problem with pooling. Cost transference may occur, among other circumstances, when inventory items from separate economic activities (for example, manufacturing and resale activities) are placed in the same pool and may cause misallocation of cost or distortion of income.

Accordingly, the proposed regulations clarify that an IPIC-method taxpayer who elects the IPIC pooling method described in §1.472-8(b)(4) or (c)(2) and whose trade or business consists of both manufacturing or processing activity and resale activity may not commingle the manufactured or processed goods and the resale goods within the same IPIC pool.

Specifically, the proposed regulations provide that a manufacturer or processor using the IPIC pooling method under §1.472-8(b)(4) that is also engaged, within the same trade or business, in wholesaling or retailing goods purchased from others may elect to establish dollar-value pools for the manufactured or processed items accounted for using the IPIC method based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. If the manufacturer or processor makes this election, the manufacturer or processor must also establish pools for its resale goods in accordance with §1.472-8(c)(2) (that is, based on the general expenditure categories in Table 3 of the CPI Detailed Report in the case of a retailer or the 2-digit commodity codes in Table 9 of the PPI Detailed Report in the case of a retailer, wholesaler, jobber, or distributor).

If the manufacturer or processor chooses to use the 5-percent method of pooling, manufactured or processed IPIC pools (IPIC pools consisting of manufactured or processed goods) of less than 5 percent of the total current year cost of all dollar-value pools may be combined to form a single miscellaneous IPIC pool of manufactured or processed goods. The manufacturer or processor may also combine resale IPIC pools (IPIC pools consisting of resale goods) of less than 5 percent of the total value of inventory to form a single miscellaneous IPIC pool of resale goods. If the miscellaneous IPIC pool of manufactured or processed goods is less than 5 percent of the total value of inventory, the manufacturer or processor may combine the miscellaneous IPIC pool of manufactured or processed goods with its largest manufactured or processed IPIC pool. The miscellaneous IPIC pool of resale goods may not be combined with any other IPIC pool.

The proposed regulations also provide that a wholesaler, retailer, jobber, or distributor using the IPIC pooling method under §1.472-8(c)(2) that is also engaged, within the same trade or business, in manufacturing or processing activities may elect to establish dollar-value pools for the resale goods accounted for using the IPIC method in accordance with §1.472-8(c)(2) (that is, based on the general expenditure categories in Table 3 of the CPI Detailed Report in the case of retailer or the 2-digit commodity codes in Table 9 of the PPI Detailed Report in the case of a wholesaler, retailer, jobber, or distributor). If the wholesaler, retailer, jobber, or distributor makes this election, it must also establish pools for its manufactured or processed goods based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report.

If the wholesaler, retailer, jobber, or distributor chooses to use the 5-percent method of pooling, resale IPIC pools of less than 5 percent of the total value of inventory may be combined to form a single miscellaneous IPIC pool of resale goods. The wholesaler, retailer, jobber, or distributor may also combine the IPIC pools of manufactured or processed goods of less than 5 percent of the total value of inventory to form a single miscellaneous IPIC pool of manufactured or processed goods. If the resale miscellaneous IPIC pool is less than 5 percent of the total value of inventory, the wholesaler, retailer, jobber, or distributor may combine the resale miscellaneous IPIC pool with the largest resale IPIC pool. The miscellaneous IPIC pool of manufactured or processed goods may not be combined with any other IPIC pool.

The Treasury Department and the IRS specifically request comments on the requirement that a taxpayer engaged in both manufacturing and resale activities within the same trade or business is required to use IPIC pooling for both activities.

Changes to Conform with Current BLS Publications

These proposed regulations modify §1.472-8(b), (c), and (e)(3) to update references from Table 6 (Producer price indexes and percent changes for commodity groupings and individual items, not seasonally adjusted) to Table 9 (Producer price indexes and percent changes for commodity and service groupings and individual items, not seasonally adjusted) because of BLS changes in the PPI Detailed Report.

These proposed regulations also modify §1.472-8(e)(3)(ii) to remove the exception to the trade or business requirement for taxpayers using the Department Store Inventory Price Indexes because BLS discontinued publishing these indexes after December 2013.

Effective/Applicability Date

These regulations are proposed to apply for taxable years ending on or after the date the regulations are published as final regulations in the **Federal Register**.

Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Natasha M. Mulleneaux of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.472-8 also issued under 26 U.S.C 472. * * *

Par. 2. Section 1.472-8 is amended as follows:

1. Paragraph (b)(4) is revised.

2. Paragraph (c)(2) is revised.

3. Paragraph (e)(3)(ii) is revised.

4. Paragraph (e)(3)(iii)(B)(2) is amended by removing “Table 6 (Producer price indexes and percent changes for commodity groupings and individual items, not seasonally adjusted)” and adding in its place “Table 9 (formerly Table 6) (Producer price indexes and percent changes for commodity and service groupings and individual items, not seasonally adjusted)” in the first sentence; and removing “Table 6” and adding in its place “Table 9” in the second sentence.

5. Paragraphs (e)(3)(iii)(C)(1) and (2) are amended by removing “Table 6” and adding in its place “Table 9”.

6. Paragraph (e)(3)(v) is revised.

The revisions read as follows:

§1.472-8 Dollar-value method of pricing LIFO inventories.

* * * * *

(b) * * *

(4) IPIC method pools--(i) In general. A manufacturer or processor that elects to use the inventory price index computation method described in paragraph (e)(3) of this section (IPIC method) for a trade or business may elect to establish dollar-value pools for those manufactured or processed items accounted for using the IPIC method as provided in this paragraph (b)(4)(i) based on the 2-digit commodity codes (that is, major commodity groups) in Table 9 (formerly Table 6) (Producer price indexes and percent changes for commodity and service groupings and individual items, not seasonally adjusted) of the “PPI Detailed Report” published monthly by the United States Bureau of

Labor Statistics (available at <http://www.bls.gov>). A taxpayer electing to establish dollar-value pools under this paragraph (b)(4)(i) may combine IPIC pools of manufactured or processed goods that comprise less than 5 percent of the total current-year cost of all dollar-value pools for that trade or business to form a single miscellaneous manufactured or processed IPIC pool. A taxpayer electing to establish dollar-value pools under this paragraph (b)(4)(i) may combine a miscellaneous manufactured or processed IPIC pool that comprises less than 5 percent of the total current-year cost of all dollar-value pools with the largest manufactured or processed IPIC pool. Each of these 5-percent rules is a method of accounting. A taxpayer may not change to, or cease using, either 5-percent rule without obtaining the Commissioner's prior consent. Whether a specific manufactured or processed IPIC pool or the miscellaneous manufactured or processed IPIC pool satisfies the applicable 5-percent rule must be determined in the year of adoption or year of change, whichever is applicable, and redetermined every third taxable year. Any change in pooling required or permitted as a result of a 5-percent rule is a change in method of accounting. A taxpayer must secure the consent of the Commissioner pursuant to §1.446-1(e) before combining or separating manufactured or processed IPIC pools and must combine or separate its manufactured or processed IPIC pools in accordance with paragraph (g)(2) of this section.

(ii) Pooling of goods a manufacturer or processor purchased for resale. A manufacturer or processor electing to establish dollar-value pools under paragraph (b)(4)(i) of this section and that is also engaged, within the same trade or business, in wholesaling or retailing goods purchased from others (resale), must establish pools for

its resale goods in accordance with paragraph (c)(2)(i) of this section. A manufacturer or processor that must establish dollar-value pools for resale goods under this paragraph (b)(4)(ii) may combine IPIC pools of resale goods that comprise less than 5 percent of the total current-year cost of all dollar-value pools for that trade or business to form a single miscellaneous resale IPIC pool. The single miscellaneous resale IPIC pool established pursuant to this paragraph (b)(4)(ii) may not be combined with any other IPIC pool. This 5-percent rule is a method of accounting. A taxpayer may not change to, or cease using, this 5-percent rule without obtaining the Commissioner's prior consent. Whether a specific resale IPIC pool satisfies the 5-percent rule must be determined in the year of adoption or year of change, whichever is applicable, and redetermined every third taxable year. Any change in pooling required or permitted as a result of this 5-percent rule is a change in method of accounting. A taxpayer must secure the consent of the Commissioner pursuant to §1.446-1(e) before combining or separating resale IPIC pools and must combine or separate its resale IPIC pools in accordance with paragraph (g)(2) of this section.

(iii) No commingling of manufactured goods and resale goods within a pool.

Notwithstanding any other rule provided in paragraph (b) or (c) of this section, a manufacturer or processor electing to establish dollar-value pools under paragraph (b)(4)(i) of this section and that is also engaged in retailing or wholesaling may not include manufactured or processed goods in the same IPIC pool as goods purchased for resale. Further, in applying the 5-percent rules described in paragraphs (b)(4)(i) and (ii) of this section, a taxpayer may not combine an IPIC pool of manufactured or processed goods that comprises less than 5 percent of the total current-year cost of all

dollar-value pools for that trade or business with a resale IPIC pool that comprises less than 5 percent of the total current-year cost of all dollar-value pools for the purpose of forming a single miscellaneous IPIC pool.

(iv) Examples. The rules of paragraph (b)(4) of this section may be illustrated by the following examples:

Example 1. (i) Taxpayer is engaged in the trade or business of manufacturing products A, B, and C. In order to cover temporary shortages, Taxpayer also purchases a small quantity of identical products for resale to customers. Taxpayer treats its manufacturing and resale activities as a single trade or business. Taxpayer uses the IPIC method described in paragraph (e)(3) of this section. Pursuant to its election, Taxpayer establishes dollar-value pools for the manufactured items under paragraph (b)(4)(i) of this section, based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. Taxpayer also establishes dollar-value pools for the items purchased for resale under paragraph (b)(4)(ii) of this section, based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. Taxpayer does not choose to use the 5-percent rules under paragraphs (b)(4)(i) and (ii) of this section.

(ii) Even though Taxpayer has manufactured items and resale items that share the same 2-digit commodity codes, under paragraph (b)(4)(iii) of this section, Taxpayer's manufactured goods may not be included in the same IPIC pool as its goods purchased for resale.

Example 2. (i) The facts are the same as in Example 1, except Taxpayer establishes three IPIC pools for its manufacturing activities and three IPIC pools for its resale activities. Further, Taxpayer chooses to use the 5-percent rules of paragraphs (b)(4)(i) and (ii) of this section. The percentage of total current-year cost of each IPIC pool to the current-year cost of all dollar-value pools for the trade or business is as follows:

		<i>Percentage of total current-year cost of IPIC pool to current-year cost of all dollar-value pools</i>
<i>Manufacturing Pools:</i>		
Pool A		90%
Pool B		1%
Pool C		1%
<i>Resale Pools:</i>		

Pool D		6%
Pool E		1%
Pool F		1%

		100%

(ii) For purposes of applying the 5-percent rules to Taxpayer's manufacturing operations under paragraph (b)(4)(i) of this section, because Pools B and C each comprise less than 5 percent of the total current-year cost of all dollar-value pools, Pools B and C may be combined to form a single miscellaneous pool of manufactured or processed goods (new Pool G).

(iii) For purposes of applying the 5-percent rules to Taxpayer's resale operations under paragraph (b)(4)(ii) of this section, because Pools E and F each comprise less than 5 percent of the total current-year cost of all dollar-value pools, Pools E and F may be combined to form a single miscellaneous pool of resale goods (new Pool H).

(iv) Because Pool G comprises less than 5 percent of the total current-year cost of all dollar-value pools, under paragraph (b)(4)(i) of this section, Pool G may be combined with Pool A, the largest IPIC pool of manufactured goods.

(v) Although Pool H also comprises less than 5 percent of the total current-year cost of all dollar-value pools, under paragraph (b)(4)(ii) of this section, Pool H may not be combined with Pool A, the largest pool of manufactured goods, or Pool D, the largest pool of resale goods.

* * * * *

(c) * * *

(2) IPIC method pools--(i) In general. A retailer that elects to use the inventory price index computation method described in paragraph (e)(3) of this section (IPIC method) for a trade or business may elect to establish dollar-value pools for those purchased items accounted for using the IPIC method as provided in this paragraph (c)(2)(i) based on either the general expenditure categories (that is, major groups) in Table 3 (Consumer Price Index for all Urban Consumers (CPI-U): U.S. city average, detailed expenditure categories) of the "CPI Detailed Report" or the 2-digit commodity codes (that is, major commodity groups) in Table 9 (formerly Table 6) (Producer price

indexes and percent changes for commodity and service groupings and individual items, not seasonally adjusted) of the “PPI Detailed Report.” A wholesaler, jobber, or distributor that elects to use the IPIC method for a trade or business may elect to establish dollar-value pools for any group of resale goods accounted for using the IPIC method based on the 2-digit commodity codes (that is, major commodity groups) in Table 9 (Producer price indexes and percent changes for commodity and service groupings and individual items, not seasonally adjusted) of the “PPI Detailed Report.” The “CPI Detailed Report” and the “PPI Detailed Report” are published monthly by the United States Bureau of Labor Statistics (BLS) (available at <http://www.bls.gov>). A taxpayer electing to establish dollar-value pools under this paragraph (c)(2)(i) may combine IPIC pools of resale goods that comprise less than 5 percent of the total current-year cost of all dollar-value pools for that trade or business to form a single miscellaneous resale IPIC pool. A taxpayer electing to establish pools under this paragraph (c)(2)(i) may combine a miscellaneous resale IPIC pool that comprises less than 5 percent of the total current-year cost of all dollar-value pools with the largest resale IPIC pool. Each of these 5-percent rules is a method of accounting. A taxpayer may not change to, or cease using, either 5-percent rule without obtaining the Commissioner's prior consent. Whether a specific resale IPIC pool or the miscellaneous resale IPIC pool satisfies the applicable 5-percent rule must be determined in the year of adoption or year of change, whichever is applicable, and redetermined every third taxable year. Any change in pooling required or permitted under a 5-percent rule is a change in method of accounting. A taxpayer must secure the consent of the Commissioner pursuant to §1.446-1(e) before combining or

separating resale IPIC pools and must combine or separate its resale IPIC pools in accordance with paragraph (g)(2) of this section.

(ii) Pooling of manufactured or processed goods of a wholesaler, retailer, jobber, or distributor. A wholesaler, retailer, jobber, or distributor electing to establish dollar-value pools under paragraph (c)(2)(i) of this section and that is also engaged, within the same trade or business, in manufacturing or processing, must establish pools for its manufactured or processed goods in accordance with paragraph (b)(4)(i) of this section. A wholesaler, retailer, jobber, or distributor that must establish dollar-value pools for manufactured or processed goods under this paragraph (c)(2)(ii) may combine IPIC pools of manufactured or processed goods that comprise less than 5 percent of the total current-year cost of all dollar-value pools for that trade or business to form a single miscellaneous manufactured or processed IPIC pool. The single miscellaneous manufactured or processed IPIC pool established pursuant to this paragraph (c)(2)(ii) may not be combined with any other IPIC pool. This 5-percent rule is a method of accounting. A taxpayer may not change to, or cease using, this 5-percent rule without obtaining the Commissioner's prior consent. Whether a specific manufactured or processed IPIC pool satisfies the 5-percent rule must be determined in the year of adoption or year of change, whichever is applicable, and redetermined every third taxable year. Any change in pooling required or permitted as a result of a 5-percent rule is a change in method of accounting. A taxpayer must secure the consent of the Commissioner pursuant to §1.446-1(e) before combining or separating manufactured or processed IPIC pools and must combine or separate its manufactured or processed IPIC pools in accordance with paragraph (g)(2) of this section.

(iii) No commingling of manufactured goods and purchased goods within a pool.

Notwithstanding any other rule provided in paragraph (b) or (c) of this section, a wholesaler, retailer, jobber, or distributor electing to establish dollar-value pools under paragraph (c)(2)(i) of this section and that is also engaged in manufacturing or processing may not include manufactured or processed goods in the same IPIC pool as goods purchased for resale. Further, in applying the 5-percent rules described in paragraphs (c)(2)(i) and (ii) of this section, a taxpayer may not combine an IPIC pool of manufactured or processed goods that comprises less than 5 percent of the total current-year cost of all dollar-value pools with a resale IPIC pool that comprises less than 5 percent of the total current-year cost of all dollar-value pools for purposes of forming a single miscellaneous IPIC pool.

(iv) Examples. The rules of paragraph (c)(2) of this section may be illustrated by the following examples:

Example 1. (i) Taxpayer is engaged in the trade or business of wholesaling products A, B, and C. Taxpayer also manufactures a small quantity of identical products for sale to customers. Taxpayer treats its wholesaling and manufacturing activities as a single trade or business. Taxpayer uses the IPIC method described in paragraph (e)(3) of this section. Pursuant to its election, Taxpayer establishes dollar-value pools for the wholesale items purchased for resale under paragraph (c)(2)(i) of this section, based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. Taxpayer also establishes dollar-value pools for the manufactured items under paragraph (c)(2)(ii) of this section, based on the 2-digit commodity codes in Table 9 of the PPI Detailed Report. Taxpayer does not choose to use the 5-percent rules under paragraphs (c)(2)(i) and (ii) of this section.

(ii) Even though Taxpayer has resale and manufactured items that share the same 2-digit commodity codes, under paragraph (c)(2)(iii) of this section, Taxpayer's resale goods may not be included in the same IPIC pool as its manufactured goods.

Example 2. (i) The facts are the same as in Example 1, except Taxpayer establishes three IPIC pools for its wholesale activities and three IPIC pools for its manufacturing activities. Further, Taxpayer chooses to use the 5-percent rules of paragraphs (c)(2)(i) and (ii) of this section. The percentage of total current-year cost of

each IPIC pool to the current-year cost of all dollar-value pools for the trade or business is as follows:

		<i>Percentage of total current-year cost of IPIC pool to current-year cost of all dollar-value pools</i>
<i>Wholesaling Pools:</i>		
Pool J		90%
Pool K		1%
Pool L		1%
<i>Manufacturing Pools:</i>		
Pool M		6%
Pool N		1%
Pool O		1%

		100%

(ii) For purposes of applying the 5-percent rules to Taxpayer's wholesaling operations under paragraph (c)(2)(i) of this section, because Pools K and Pool L each comprise less than 5 percent of the total current-year cost of all dollar-value pools, Pools K and L may be combined to form a single miscellaneous pool of wholesale goods (new Pool P).

(iii) For purposes of applying the 5-percent rules to Taxpayer's manufacturing operations under paragraph (c)(2)(ii) of this section, because Pools N and O each comprise less than 5 percent of the total current-year cost of all dollar-value pools, Pools N and O may be combined to form a single miscellaneous pool of manufactured goods (new Pool Q).

(iv) Because Pool P comprises less than 5 percent of the total current-year cost of all dollar-value pools, under paragraph (c)(2)(i) of this section, Pool P may be combined with Pool J, the largest IPIC pool of resale goods.

(v) Although Pool Q also comprises less than 5 percent of the total current-year cost of all dollar-value pools, under paragraph (c)(2)(ii) of this section, Pool Q may not be combined with Pool J, the largest pool of resale goods, or Pool M, the largest pool of manufactured goods.

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(e) * * *

(3) * * *

(ii) Eligibility. Any taxpayer electing to use the dollar-value LIFO method may elect to use the IPIC method. Except as provided in other published guidance, a taxpayer that elects to use the IPIC method for a specific trade or business must use that method to account for all items of dollar-value LIFO inventory.

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(v) Effective/applicability date. The rules of this paragraph (e)(3) and paragraphs (b)(4) and (c)(2) of this section are applicable for taxable years ending on or after the date the Treasury decision adopting these rules as final regulations is published in the **Federal Register**.

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John Dalrymple

Deputy Commissioner for Services and Enforcement.

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